

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SHAWN COSENZA, individually and on behalf of all others similarly situated, | Civil Action No. _____

Plaintiff,

v.

DISTRESSED ASSET PORTFOLIO III, LLC and UNIFUND CCR, LLC,

Defendants.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendants Distressed Asset Portfolio III, LLC (“DAP III”) and Unifund CCR, LLC (“Unifund”) are removing the civil action captioned *Shawn Cosenza v. Distressed Asset Portfolio III, LLC and Unifund CCR, LLC*, pending in the Court of Common Pleas of Lackawanna County, Pennsylvania at Case Number 21-cv-306, to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

I. INTRODUCTION

1. On January 25, 2021, Plaintiff Shawn Cosenza (“Plaintiff”) initiated this civil action by filing a Class Action Complaint (sometimes, “Compl.”) against DAP III and Unifund in the Court of Common Pleas of Lackawanna County, Pennsylvania at Case Number 21-CV-306. The Class Action Complaint was served on DAP III and Unifund on February 16, 2021. A true and correct copy of the copy of the Class Action Complaint served on DAP III is attached hereto as **Exhibit A**. A true and correct copy of the copy of the Class Action Complaint served on Unifund is attached hereto as **Exhibit B**. The Class Action Complaint is the only “process,

pleadings, and orders served upon” DAP III and Unifund in this civil action. *See*, 28 U.S.C. § 1446(a).

2. Plaintiff’s Class Action Complaint alleges that DAP III and Unifund violated the federal Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692 *et seq.*, by making false representations and engaging in deceptive conduct. Plaintiff’s Class Action Complaint asserts two causes of action for violations of the FDCPA, 15 U.S.C. §§ 1692e, one – Count I – against DAP III and Unifund, and one – Count II – against Unifund only. Plaintiff’s Class Action Complaint seeks statutory damages and attorneys’ fees and costs against DAP III and Unifund. (Compl., Counts I and II).

II. THIS COURT HAS ORIGINAL SUBJECT MATTER JURISDICTION OF THIS CIVIL ACTION PURSUANT TO 28 U.S.C. § 1331.

3. This Court has original jurisdiction over Plaintiff’s claims for violations of the FDCPA (Compl., Counts I and II) pursuant to 28 U.S.C. § 1331 because the federal courts “shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States,” 28 U.S.C. § 1331, and this civil action (*see*, Compl., Counts I and II) arises under the FDCPA, a federal law. *See, e.g.*, *Zimmerman v. HBO Affiliate Group*, 834 F.2d 1163 (3d Cir. 1987).

III. UNIFUND HAS SATISFIED THE PROCEDURAL AND VENUE REQUIREMENTS FOR REMOVAL.

4. Plaintiff’s Class Action Complaint was served on DAP III and Unifund on February 16, 2021. Therefore, removal is timely pursuant to 28 U.S.C. § 1446(b). 28 U.S.C. § 1446(b)(1) (“The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading.”).

5. The Court of Common Pleas of Lackawanna County, Pennsylvania is located within the Middle District of Pennsylvania, *see*, 28 U.S.C. § 105(b), and venue for this action is proper in the Middle District of Pennsylvania pursuant to 28 U.S.C. § 1441(a) because the Middle District of Pennsylvania is the “district and division embracing the place where such action is pending.”

6. Immediately following the filing of this Notice of Removal, DAP III and Unifund will file a Notice of Filing Notice of Removal in the Court of Common Pleas of Lackawanna County, Pennsylvania and serve the same upon Plaintiff as required by 28 U.S.C. § 1446(d). A true and correct copy of the Notice of Filing Notice of Removal (without Exhibit) is attached hereto as **Exhibit C**.

IV. NON-WAIVER AND RESERVATION

7. By removing this civil action to this Court, DAP III and Unifund do not waive any defenses, objections, or motions available under state or federal law. DAP III and Unifund expressly reserve the right to move for dismissal of some or all of Plaintiff’s claims and/or seek dismissal of Plaintiff’s claims on grounds of lack of personal jurisdiction, improper venue, or under the doctrine of forum *non conveniens*.

WHEREFORE, Defendants Distressed Asset Portfolio III, LLC and Unifund CCR, LLC hereby give notice that the civil action captioned *Shawn Cosenza v. Distressed Asset Portfolio III, LLC and Unifund CCR, LLC*, pending in the Court of Common Pleas of Lackawanna County, Pennsylvania at Case Number 21-cv-306, is removed to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

Respectfully submitted,

Dated: March 18, 2021

/s/ Nicholas J. Godfrey
Nicholas J. Godfrey, Esq.
Pa. I.D. No. 312031
DINSMORE & SHOHL LLP
1300 Six PPG Place
Pittsburgh, PA 15222
412.288.5861 (t)
412.281.5055 (f)
nicholas.godfrey@dinsmore.com

*Counsel for Defendants Distressed Asset
Portfolio III, LLC and Unifund CCR, LLC*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Removal was served upon the following this 18th day of March, 2021 by the Court's CM/ECF System and/or U.S. Mail, First Class, and E-Mail:

Carlo Sabatini, Esq.
Brett Freeman, Esq.
Sabatini Freeman, LLC
216 N. Blakely Street
Dunmore, PA 18512

Counsel for Plaintiff Shawn Cosenza

/s/ Nicholas J. Godfrey
Nicholas J. Godfrey, Esq.